



Immingham Green Energy Terminal

9.25 Draft Statement of Common Ground between
Associated British Ports, Air Products (BR)
Limited and Anglian Water Services Ltd (Clean)

Infrastructure Planning (Examination Procedure) Rules 2010
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Status of the Statement of Common Ground

Associated British Ports and Air Products (BR) Limited considers that this draft Statement of Common Ground (SoCG) is an accurate description of the matters raised and the current status of each matter.

On Behalf of Associated British Ports

Name	[REDACTED]
Position	Project Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

On Behalf of Air Products (BR) Limited

Name	[REDACTED]
Position	Commercial Director
Organisation	Air Products
Signature	[REDACTED]

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1 Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared to accompany an application made to the Secretary of State for Transport (the “Application”) under Section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”) to authorise the construction and operation of the proposed Immingham Green Energy Terminal (“the Project”).
- 1.2 The Application is submitted by Associated British Ports (“ABP”). ABP was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information on ABP as the Applicant.
- 1.3 The Project as proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 ABP is seeking to construct, operate and maintain the Project, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the “Port”).
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited (“Air Products”). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement (“ES”) Chapter 2: The Project [REP3-022]**.

Parties to this Statement of Common Ground

- 1.7 This SoCG has been prepared by (1) ABP (as the Applicant), (2) Air Products and (3) Anglian Water Services Ltd (“AWS”).
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 Air Products is to be the first user of the new terminal with the construction and operation of its green hydrogen production facility.
- 1.10 AWS is the supplier and wholesaler of water and provider of water recycling services within the East of England from the Humber Estuary to Thames Estuary, and Hartlepool. AWS is the statutory water and sewerage undertaker for the area within which the Project is situated. AWS does not have a regulatory requirement to supply water to meet non household water demands. The supply of water would be as a wholesaler to Air Products selected water retailer.

1.11 In this SoCG, ABP, Air Products and AWS are collectively referred to as “the Parties”.

Purpose and Structure of this Document

- 1.12 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the Examination so as to assist the Examining Authority in its consideration of the Application.
- 1.13 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development consent (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority’s **Rule 6 letter [PD-005]**.
- 1.14 Section 1 of this SoCG provides a general introduction to the Project and to the Parties.
- 1.15 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the Parties.
- 1.16 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.17 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed
 - (b) Orange – matter ongoing
 - (c) Red – matter not agreed

2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and AWS up to the date of this SoCG in relation to the Project generally and concerning the matters raised in this SoCG specifically is presented in Table 2-1.
- 2.2 It is agreed by the Parties to this SoCG that Table 2-1 is an accurate record of the meetings and key correspondence between the Parties.

Table 2-1: Record of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
Pre-application		
04/10/22	Application by Air Products via AWS online "InFlow" web Portal	Air Products submitted Application no. PPE-0147057 via AWS online work process. This is a Pre-Project-Enquiry, to secure AWS resource to review / screen the project basis to determine what level of application is required. AWS produced a Pre-Planning Assessment that advised Air Products on the appropriate application process.
Jan 2023	Air Products submitted applications to AWS for each aspect of supply / waste	<p>The following applications were submitted via AWS online work process, each advises AWS on the key Project information and requirements:</p> <p>NSD-0174570 East Site Potable & waste requirements</p> <p>NSD-0174352 West Site Potable & waste requirements</p> <p>NSD-0170975 (NWC-0159845 parent no.) Non-Potable requirements</p> <p>ALD-0159849 Permanent Waste / Trade Effluent, requirements for both East and West Site</p>
16/02/23	Meeting between Air Products and AWS Growth Liaison Manger	Detailed discussion of water / waste requirements for the facility, connection and supply. This was an introductory meeting to the AWS Growth Liaison Manager who reviewed the application details and sought clarification on minor technical points.

Date	Form of Contact	Summary with key outcomes and points of discussion
16/03/23	AWS meetings between ABP, Air Products and other South Humber projects	Water Resource Zone water scarcity issues set out for projects and that the total quantum of water required for future projects for the South Humber would, after any headroom used up, require either a treated final effluent supply or a desalination plant. Letters provided by projects on forecast total water demands which totalled circa 60MLD.
Ongoing	Regular (4-6 weeks) progress reviews between Air Products with AWS Growth Liaison Manger and Design Engineers	Meetings provided an opportunity for AWS to ask any technical clarification questions of Air Products requirements and provide progress updates on applications PPE-0147057, NSD-0174570, NSD-0174352, NSD-0170975 and ALD-0159849.
16/03/23	Application expenses paid to AWS by Air Products	Underwriting payments made to AWS by Air Products for AWS to model the impact to the AWS water networks of the requirements set out in applications PPE-0147057, NSD-0174570, NSD-0174352, NSD-0170975 and ALD-0159849.
24/05/23	Application sent by ABP for a potable water supply	Application NWC-0176575 was submitted to Anglian Water via their online application process for a potable water supply to the jetty buildings.
25/05/23	Connection offers received by Air Products from AWS	AWS made connection offers NSD-0174570, NSD-0174352 and NSD-0170975 to Air Products; these were acceptable to meet the flow requirements set out in applications NSD-0174570, NSD-0174352 and NSD-0170975. The offers came with a 12 month expiry date to start using the water which was not possible per the Project timeline.
June 2023	Air Products submitted applications to AWS	The following application was submitted via AWS online work process, advising AWS on the key Project information and requirements:

Date	Form of Contact	Summary with key outcomes and points of discussion
	for each aspect of supply / waste	NSD-0178521 Non-Potable requirements for the full Project (seeking a higher amount than sought via NSD-0170975).
29/06/23	Offer received by ABP for potable water to the jetty	AWS made an offer to ABP in response to application NWC-0176575.
27/07/23	Connection offers received by Air Products from AWS	AWS advised Air Products that they are unable to make an offer for the supply per application NSD0178521.
29/08/23	Email from Air Products to AWS Liaison Manager	Air Products provided draft protective provisions based on IERRT draft DCO rather than AWS template protective provisions.
05/09/23	Meeting between Air Products and AWS	AWS advised Air Products that there is insufficient capacity at nearest Water Recycling Centre to manage the entirety of the industrial wastewater requirements of the Project as outlined in application ALD-0159849. Air Products and AWS agreed to work together to identify alternative solutions.
Post DCO Submission		
28/09/23	Meeting between Air Products and AWS Planning Manger	Air Products and AWS held technical discussions on alternatives for the supply of the industrial wastewater and Trade Effluent, as outlined in application ALD-0159849. AWS recommended that Air Products contract Anglian Venture Holdings ("AVH") to investigate and propose engineered solutions to meet the requirements of the application.
09/10/23	Meeting between Air Products and the Strategic Development Director of Anglian Venture Holdings ("AVH")	Air Products presented the industrial wastewater requirements of application ALD-0159849 to AVH and commissioned AVH to undertake a feasibility study on possible solutions that could meet the requirements. The solution to supply treated wastewater to meet the Project's non-potable demands is not now being progressed (see entry at 13/2/24 below) as the Project has increased

Date	Form of Contact	Summary with key outcomes and points of discussion
		the water efficiency of the process such that this could now be met through use of the current (March 2024) non-potable water supply from Elsham.
09/11/23	Meeting between Air Products and the Strategic Development Director of Anglian Venture Holdings	<p>Air Products was advised that AVH is in discussions with AWS Legal team / Strategy on the industrial wastewater and non-potable solution.</p> <p>Air Products was advised that there is a statutory obligation for AWS to make the connections and supply for the Potable / Waste “domestic” use applications, i.e. AWS as wholesaler does not have to make connections or supply non domestic requests, specifically if these may compromise domestic services.</p>
05/01/24	Meeting at Alpheus Environmental Ltd (a subsidiary of AVH) between Air Products and Alpheus and AVH	<p>During the meeting those present discussed the options for handling the trade effluent waste with a focus on hydrogen production facility Phase 1 requirement.</p> <ol style="list-style-type: none"> 1. A discussion took place on contracting Alpheus to undertake a study proposal to determine if the Air Products effluent could be treated / reduced / recycled onsite as part of the Project to enable discharge to the Immingham water recycling centre. 2. Air Products was requested to supply details of the chemical composition and flowrates of the trade effluent. 3. AVH agreed to re-engage with AWS to determine: <ol style="list-style-type: none"> a. The available headroom at the Immingham water recycling centre b. The acceptable composition of the trade effluent acceptable to the Immingham recycling centre

Date	Form of Contact	Summary with key outcomes and points of discussion
08/01/24	Email from Charles Russell Speechlys (“CRS”) acting for Air Products to AWS (legal representative)	CRS advised AWS of the protective provisions included in the draft DCO submitted with the Application and proposed changes to the protective provisions.
09/01/24	Email from Air Products to Alpheus and AVH	Air Products supplied trade effluent discharge rates for the Project phases.
10/01/24	Email from Air Products to Alpheus and AVH	Air Products supplied the chemical compositions of the trade effluent discharges
11/01/24	Email from AWS (legal representative) to CRS	AWS provided their standard protective provisions and requested confirmation of any site specific reasons to deviate from their standard position.
23/01/24	Email from Air Products to AVH	Request for an update on the water supply offers and the options for managing the trade effluent.
23/01/24	Email from AVH to Air Products	AVH advised that work is ongoing to model the Air Products trade effluent in the existing network.
13/02/24	Email from AWS to Air Products	AWS made a formal offer to Air Products, Ref NSD-0170975, to supply 3456m3 non-potable water to the site. Air Products have assessed and this is sufficient for the whole Project. As at 4/03/24 Air Products has not formally entered into agreement with AWS on the non-potable water offer or finalised the approach to managing trade effluent including waste water treatment or discharge during commissioning. AWS letter for NSD-017095 sets out that the offer does not reserve that quantum of water.
15/02/24	Meeting between Air Products and AWS	AWS advised that the non-potable water supply offer is not an agreement to supply and instead is a commitment reservation offer. AWS supplied edited text to Air Products on 19/02/24 summarising the position which states:

Date	Form of Contact	Summary with key outcomes and points of discussion
		<ul style="list-style-type: none"> • AWS commercial offer is a commitment reservation not a capacity reservation. • In so far as it is able to do so, AWS have committed to supply of the non-potable water levels but technically cannot reserve the capacity due to the time before the water is needed in the later phases. • The non-potable water required for Phase 1 is currently available from Elsham. • The water commitment will be included in AWS water planning. The exact method of delivery will be established later. • AWS and Air Products to keep regular dialogue.
19/03/24	Email from ABP to AWS	<p>Updated application NWC-0176575. Updated the application with new flow rate requirements, addition of a landside fire hydrant and to query the need for an air gap on the jetty.</p> <p>This was backed-up and clarified through a series of further exchanges between 23/03 and 19/04 where usage breakdowns were supplied, and other clarifications addressed.</p>
26/03/24	Meeting with AWS	<p>Scheduled meeting to discuss comments to SoCG and matters surrounding application NSD-0170975. This meeting was postponed at the request of AWS due to availability.</p>
3/04/24	Email from AWS to Air Products	<p>Summary for Air Products on link between water resource planning and new large scale non domestic water demands.</p> <p>'Anglian Water is required to ensure that there is sufficient resource available for existing and future domestic water customers. This is assessed through the statutory Water Resources Management Plan (WRMP), which is updated every five (5) years. The 2024 WRMP considers water resources to 2050 and includes consideration of known and anticipated growth in non-domestic water demands. Options for</p>

Date	Form of Contact	Summary with key outcomes and points of discussion
		supplying increased demands and replacing supplies lost to sustainability reductions are set out in the WRMP. The cost of ensuring that water resource supplies remain both sustainable and resilient (including headroom) are a commercial matter between AWS as wholesaler, retailers and non-domestic customers.'
05/04/24	Meeting with AWS	Scheduled meeting to discuss comments to SoCG and matters surrounding application NSD-0170975. This meeting was postponed at the request of AWS due to availability.
09/04/24	Phone Call between ABP and AWS	Phone call with AW asking if the fire hydrant could be non-potable water. ABP confirmed no objection.
15/04/24	Teams Meeting between Air Products and AWS	Discussion surrounding the SoCG and WRA. Agreement and alignment on matters recorded within SoCG.
25/04/24	Email from Air Products to AWS	Latest version of SoCG submitted to AWS for comment.
29/04/24	Email from AWS to Air Products	AWS agree 3 points on Protective Provisions including reduced stand offs for pipes under 400mm. AWS reiterate need to be a consultee on the Surface Water Management Plan given dDCO right to connect to public sewer.
01/05/24	Email from AWS to Air Products	AWS returned comments to SoCG.
17/05/24	Email from CRS to AWS	Providing comments and further mark up of draft Protective Provisions for AWS to consider.
10/06/24	Email from AWS to CRS	Providing comments on the Protective Provisions provided by email from CRS on 17 May.
12/06/24	Meeting between AWS, CRS and Air Products	Discussions on AWS's request for a pre-commencement requirement for a Water Resource Assessment. AWS agreed to provide further details on their proposal and the contact

Date	Form of Contact	Summary with key outcomes and points of discussion
		details for those within North East Lincolnshire Council (“NELC”) and the Environment Agency (“EA”) such that Air Products could discuss NELC/EA’s expectations of such a requirement.
23/06/24	Email from CRS to AWS	CRS confirmed instructions from ABP and Air Products that the comments provided by AWS on the Protective Provisions on 10 June are agreed and enclosed the final form draft Protective Provisions for AWS approval.
24/06/24	Email from AWS to Air Products	AWS provided details of the individuals at NELC and with the EA with whom the need for a pre-commencement requirement had been discussed.
24/06/24	Email from AWS to CRS	Confirming Protective Provisions in favour of AWS are agreed.
25/06/24	Email from AWS to Air Products	AWS advised that they are planning to submit a Written Representation w/c 1 July 2024, and requested Air Products to share a draft of a requirement for their review.
27/06/24	Email from AWS to Air Products	<p>AWS provided a document outlining the AWS policy for dealing with Non-Domestic water requests, and provided reference of Teesside H2 project dDCO which included the following requirement:</p> <p><i>“No part of the authorised development may commence, save for the permitted preliminary works, unless the following plans for that part have been submitted to and, after consultation with the Environment Agency and STDC, approved by the relevant planning authority—</i></p> <p><i>(a) site waste management plan (produced in substantial accordance with the outline site waste management plan);</i></p> <p><i>(b) water management plan (produced in substantial accordance with the outline water management plan);”</i></p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		AWS reconfirmed that <i>“IGET is of course in the fortunate position that the request for water currently could be served by the remaining non potable headroom from Elsham”</i> .
10/07/24	Email from AWS responding to SoCG	AWS update SoCG and attach new briefing paper on the Water Resource Assessment approach including the use of a pre-commencement Requirements (or planning conditions in TCPA applications) to drive water efficiency in commercial developments demanding significant quantities of non-household water.

3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the following chapters of the **Consultation Report [APP-022]** submitted with the Application set out the consultation and engagement undertaken between the Parties in relation to the Application:
- 3.1.1 Chapter 3; AWS responded to Planning Inspectorate Scoping consultation in January 2023.
- 3.1.2 Chapter 4; First Statutory Consultation. AWS responded to the first statutory consultation in February 2023.
- 3.1.3 Chapter 5; Second Statutory Consultation. AWS responded to the second statutory consultation in July 2023.
- 3.1.4 Chapter 6; Table 30: Summary of engagement activities with land interest consultees during Project Launch phase. AWS through its land agent was engaged ahead of Statutory Consultation.
- 3.1.5 Chapter 6; Table 32; “Correspondence received outside of Statutory Consultation periods”. A record of the correspondence with AWS outside of the Statutory Consultation period.
- 3.2 Table 3-1 contains a list of ‘matters agreed’ (shaded green); a list of matters in respect of which discussion is ongoing (shaded orange) and a list of matters not agreed (shaded red) at the date of the Examination along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

Table 3-1: List of Matters Agreed, Matters Outstanding and Matters Not Agreed

ID	Matter	Reference	AWS's Position	ABP and Air Products' Position	Status	Date
1	Potable water / waste	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 7.7 Utilities Statement [APP-239]	Connection / supply offers have been made to Air Products. These have an expiry date of 30 Nov 2024. At Air Products' request these are being renewed and will be re-issued in early 2024.	Air Products and ABP confirm that the flow of potable water offered is acceptable to meet the potable water needs of the Project. Air Products has requested AWS to renew the offers.	Agreed	15/02/24
2	Potable Water	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 7.7 Utilities Statement [APP-239]	An offer was made to supply potable water to the jetty.	ABP is in the process of reviewing the offer made. ABP have updated the flow requirements on 19 th March 2024, which is still being evaluated. This does not impact the Air Products facility. The use of non-potable water for the supply to the fire main is also under consideration.	Discussion ongoing	

ID	Matter	Reference	AWS's Position	ABP and Air Products' Position	Status	Date
3	Non-Potable water	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 7.7 Utilities Statement [APP-239]	A connection / supply offer has been made to Air Products. This has an expiry date of 13 Aug 2024. Anglian Water is required to ensure that there is sufficient resource available for existing and future domestic water customers. This is assessed through the statutory Water Resources Management Plan (WRMP), which is updated every five (5) years. The 2024 WRMP considers water resources to 2050 and includes consideration of known and anticipated growth in non-domestic water demands. Options for supplying increased demands and replacing supplies lost to sustainability reductions are set out in the WRMP. The cost of ensuring that water resource supplies remain both sustainable and resilient (including headroom) are a commercial matter between AWS as wholesaler, retailers and non-domestic customers.	Air Products confirm that the flow of non-potable water offered is acceptable to meet the needs of the hydrogen production facility. Air Products formally accepted the offer on 15 March 24 and paid the initial payment. Air Products acknowledges AWS position on resource availability, and is happy to continue to engage in discussion. This is now a commercial matter between the parties.	Agreed	15/04/24

ID	Matter	Reference	AWS's Position	ABP and Air Products' Position	Status	Date
4	Industrial waste / Trade Effluent	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 7.7 Utilities Statement [APP-239]	AWS has advised Air Products that the entirety of the flow requested via the application cannot be accepted by the AWS existing infrastructure. However, it is anticipated that there is headroom at the AWS existing infrastructure to meet part of the needs of the Project. Anglian Venture Holdings (AVH) are working with Air Products on options for onsite treatment of trade effluent before discharge to the AWS water treatment works.	The DCO application includes the provision of wastewater treatment equipment as part of the hydrogen production facility which can treat on-site effluent which cannot be accepted by the existing AWS infrastructure. Air Products are in discussions as to the level of flow that will be treated by AWS and the flow that will be treated on site. Air Products considers that all trade effluent can be adequately addressed between those two options. Air Products anticipate that the discussions on the options will be completed within the next 4 weeks.	Discussion ongoing	
5	Supply for Tank Testing	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]	A connection / supply offer has been made to Air Products. This has an expiry date of 30 Nov 2024. AWS has agreed to renew the offer which is expected to be issued in early 2024.	Air Products confirms that the supply offer received by AWS is acceptable for the tank testing needs for the hydrogen production facility. Air Products has requested AWS to renew the offer.	Agreed	15/03/24

ID	Matter	Reference	AWS's Position	ABP and Air Products' Position	Status	Date
		7.7 Utilities Statement [APP-239]				
6	Water Resources Assessment (WRA)	AWS Relevant Representation [RR-001]	AWS continue to seek a pre-commencement requirement for a WRA and will submit a Written Representation to the ExA.	Air Products considers that a pre-commencement requirement is not necessary, noting in particular that water use is regulated through the Environmental Permit. Air Products continues to engage with AWS to understand the information that is sought prior to commencement and why this should be secured as a requirement. Air Products will review and respond to AWS's Written Representation once received.	Discussion ongoing	
7	Duration of offers	6.2 Environmental Statement - Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk	AWS work practice is to make offers with a 12 month expiry date. AWS acknowledges that this limitation is not suitable for large infrastructure projects whereby the services may not be required for periods longer than	Air Products acknowledges AWS's position.	Agreed	15/04/24

ID	Matter	Reference	AWS's Position	ABP and Air Products' Position	Status	Date
		and Drainage [APP-060] 7.7 Utilities Statement [APP-239]	the expiry date, this inhibits Final Investment Decisions (FIDs). AWS has provided details of the engagement process for ensuring the supply / connection offer remains valid to meet the project schedule.			
8	Protective Provisions	2.1 Draft Development Consent Order [REP4-004]	AWS agree with ABP and Air Products' position that the Protective Provisions are agreed and will be placed on the face of the dDCO at Deadline 5.	The Protective Provisions in favour of AWS have been agreed on 24 June 2024 and will be placed on the face of the dDCO at Deadline 5 of the Examination.	Agreed	24/06/24
9	Compulsory Acquisition (CA)	Book of Reference [REP3-009]	AWS understands that no compulsory acquisition is required of AWS assets or land.	It is confirmed that the Project design does not require the compulsory acquisition of any AWS assets or land. It is proposed to acquire rights to install and retain a pipeline under land leased to AWS (with an associated restrictive covenant to protect that pipeline) (plot 5/14). The protection of AWS assets will be addressed through the protective provisions.	Agreed	05/04/24

4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
AVH	Anglian Venture Holdings
AWS	Anglian Water Services
CRS	Charles Russell Speechlys LLP
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
FID	Final Investment Decision
MMO	Marine Management Organisation
NELC	North East Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom
WRA	Water Resource Assessment